

BRECKENRIDGE DECL. EXHIBIT 9

Jeffrey E. Ireland

April 10, 2006

Helena, MT

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THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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In re: PHARMACEUTICAL) MDL DOCKET NO.
INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
PRICE LITIGATION) 01CV12257-PBS
-----X

THIS DOCUMENT RELATES TO:)
ALL ACTIONS)
-----X

Taken at 33 South Last Chance Gulch

Helena, Montana

Monday, April 10, 2006 - 3:00 p.m.

D E P O S I T I O N

OF

JEFFREY E. IRELAND

Reported by Mary R. Sullivan, RPR, RMR, Freelance
Court Reporter and Notary Public, State of Montana,
residing in Missoula, Montana.

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23 (Pages 86 to 89)

<p style="text-align: right;">86</p> <p>1 this final report.</p> <p>2 A. I don't.</p> <p>3 Q. Before the letter of April 4th, 1996 went</p> <p>4 out, do you recall any discussions that you</p> <p>5 participated with anyone of the other cc recipients</p> <p>6 relative to how the Medicaid disbursing fee was</p> <p>7 constructed, whether it was below the cost to</p> <p>8 disburse and the like? Do you have a memory of</p> <p>9 talking about that subject with anyone?</p> <p>10 MS. BRECKENRIDGE: Objection, foundation</p> <p>11 and form.</p> <p>12 Q. (By Mr. Waterman) You can answer.</p> <p>13 A. With regard specifically to this study?</p> <p>14 Q. With regard--actually what I'm looking at</p> <p>15 now is the April 4th letter.</p> <p>16 A. Right.</p> <p>17 Q. It has some comments from Dr. Blouke up.</p> <p>18 A. Right.</p> <p>19 Q. You said the group--</p> <p>20 A. Specifically the dispensing fee.</p> <p>21 Q. Yeah, right, right.</p> <p>22 A. I don't remember that.</p>	<p style="text-align: right;">88</p> <p>1 recommendations.</p> <p>2 A. I don't remember receiving any directions</p> <p>3 that would have been a result from this.</p> <p>4 Q. Aside from this OIC report, are you</p> <p>5 familiar--do you--strike that. Aside from this OIC</p> <p>6 report, do you remember receiving any other OIC</p> <p>7 reports that are--that covered this subject matter?</p> <p>8 That is, the pharmacy reimbursement?</p> <p>9 A. I don't remember anything else that--</p> <p>10 although it was possible. Trying to remember back,</p> <p>11 I don't remember anything specifically.</p> <p>12 Q. Do you have any data or any reason to</p> <p>13 doubt the accuracy of the final report that's</p> <p>14 enclosed in Exhibit Ireland 006?</p> <p>15 A. Given the fact that it was conducted by</p> <p>16 the Office of Inspector General, I wouldn't have any</p> <p>17 reason to doubt that their information wasn't</p> <p>18 correct.</p> <p>19 Q. Do you know whether or not the State</p> <p>20 conducted its own survey of acquisition costs at or</p> <p>21 about the time that this report was prepared?</p> <p>22 A. If we did, I don't remember doing so.</p>
<p style="text-align: right;">87</p> <p>1 Q. And you didn't participate with any group</p> <p>2 that met to talk about the draft report that--from</p> <p>3 the OIG? I think we've established that already.</p> <p>4 A. Right, not that I can remember.</p> <p>5 Q. If you'll go to the third page, it's Bates</p> <p>6 stamp MT 019233. The very top, it says, "We are</p> <p>7 recommending that the Montana Department of Public</p> <p>8 Health and Human Services consider the results of</p> <p>9 this review as a factor in any future changes to</p> <p>10 pharmacy reimbursement Medicaid drugs." Do you</p> <p>11 remember receiving the OIC report, two copies of</p> <p>12 which are actually attached to this letter Exhibit</p> <p>13 Ireland 006 by the transmittal of July 11, 1996. Do</p> <p>14 you remember receiving that so that you could take</p> <p>15 the results of this report into consideration of any</p> <p>16 future changes to pharmaceutical reimbursement for</p> <p>17 Medicaid drugs?</p> <p>18 A. I don't remember receiving the report.</p> <p>19 Q. Or talking to anybody about it, I take it.</p> <p>20 A. No, I don't.</p> <p>21 Q. Or receiving any directives from anyone</p> <p>22 above you relative to these conclusions or</p>	<p style="text-align: right;">89</p> <p>1 Q. Do you remember seeing any other studies,</p> <p>2 not necessarily prepared by the State, but any other</p> <p>3 entity or organization relative to sort of a counter</p> <p>4 study or to respond to the OIC report?</p> <p>5 A. No, I don't.</p> <p>6 Q. When the OIC--do you remember any</p> <p>7 controversy over the OIC report when it was issued</p> <p>8 in 1996?</p> <p>9 A. No, I don't.</p> <p>10 Q. Would it be fair to say that in light of</p> <p>11 the fact that this was done by the OIC, that that</p> <p>12 was the most reliable source of data recording</p> <p>13 acquisition costs of Montana Medicaid providers?</p> <p>14 MS. BRECKENRIDGE: Objection.</p> <p>15 Q. (By Mr. Waterman) You can answer.</p> <p>16 A. Personally I think that even though there</p> <p>17 was credibility with it, there would have not been</p> <p>18 likely an assumption that this was the most accurate</p> <p>19 or the only accurate information. It would have</p> <p>20 been viewed as a piece of information that could</p> <p>21 have been used by the State to help them to</p> <p>22 determine a decision that they made or may not make</p>

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<p style="text-align: right;">90</p> <p>1 as they move forward.</p> <p>2 Q. Besides the OIC report, what other sources</p> <p>3 of data would have existed that you would have</p> <p>4 turned to to develop information about acquisition</p> <p>5 costs with Montana Medicaid providers?</p> <p>6 MS. BRECKENRIDGE: Objection.</p> <p>7 Q. (By Mr. Waterman) You can answer.</p> <p>8 A. I suppose information that would have been</p> <p>9 within our own state, information that we would have</p> <p>10 been able to possibly gain from pharmacies if we</p> <p>11 would have done a survey ourselves. Information</p> <p>12 that may have been published in publications such as</p> <p>13 Medispan, Red Book, those type of things, as</p> <p>14 examples.</p> <p>15 Q. Do you know whether or not there was such</p> <p>16 information from within the state that you looked at</p> <p>17 in the ordinary course of carrying out your</p> <p>18 functions as a PPM during the period of time you</p> <p>19 filled that capacity?</p> <p>20 A. Yes.</p> <p>21 Q. And what were those sources of data?</p> <p>22 A. When a pharmacy submitted a bill to the</p>	<p style="text-align: right;">92</p> <p>1 been a report that was generated from the MMIS</p> <p>2 system, it could have been a request specifically</p> <p>3 for a report through Consultec, who was the fiscal</p> <p>4 intermediary, but it wouldn't have necessarily been</p> <p>5 reduced to anything other than what was generated as</p> <p>6 the, you know, the initial summary data.</p> <p>7 Q. Okay. If the summary data had been</p> <p>8 gathered, who would have gathered that? You or</p> <p>9 someone under your direction?</p> <p>10 A. Yes. It could have been gathered by my</p> <p>11 supervisor, it could have been gathered by someone</p> <p>12 else in the directorate, so it wouldn't have been</p> <p>13 limited to just the program manager.</p> <p>14 Q. Would--do you recall ever gathering such</p> <p>15 data?</p> <p>16 A. Yes, I do.</p> <p>17 Q. And what was the purpose of doing that?</p> <p>18 A. The purpose would have been to potentially</p> <p>19 substantiate a claim from a pharmacist that our</p> <p>20 reimbursement was below what they were actually able</p> <p>21 to purchase a drug for. I would have run a report</p> <p>22 to help me determine if this was an isolated</p>
<p style="text-align: right;">91</p> <p>1 Medicaid program, it was a request that they submit</p> <p>2 it using the prices that they would typically charge</p> <p>3 for any regular paying customer. That allowed us to</p> <p>4 make a determination periodically of the</p> <p>5 reimbursement differences between what was actually</p> <p>6 being charged versus what we were reimbursing, so</p> <p>7 our own internal data may have been something that</p> <p>8 could have been used as a resource.</p> <p>9 Q. Did you ever collect that data in a</p> <p>10 comprehensive survey of any type?</p> <p>11 A. Not in the sense of a survey, but that</p> <p>12 information was periodically reviewed as a way of</p> <p>13 monitoring the effectiveness of the program.</p> <p>14 Q. And when you say "was periodically</p> <p>15 reviewed", what that--what I hear you saying is that</p> <p>16 it would have been looked at and then reduced to</p> <p>17 some form of a report to someone, one of your</p> <p>18 supervisors?</p> <p>19 A. Not necessarily.</p> <p>20 Q. Okay.</p> <p>21 A. The information may have been reviewed</p> <p>22 specifically at the program level. It could have</p>	<p style="text-align: right;">93</p> <p>1 instance or if this was, you know, a bigger issue,</p> <p>2 so that would have been an example of when I would</p> <p>3 have requested one of the reports or run one myself.</p> <p>4 Q. From the times when you ran those reports,</p> <p>5 did you draw any conclusions about the difference</p> <p>6 between the AWP and the acquisition costs for</p> <p>7 Montana Medicaid providers?</p> <p>8 A. Yes.</p> <p>9 Q. What did you--what conclusions did you</p> <p>10 draw?</p> <p>11 A. In some instances, the conclusion that I</p> <p>12 drew was that because a particular size of a</p> <p>13 pharmacy and not being able to purchase in bulk</p> <p>14 supplies, their cost is higher, but overall, the</p> <p>15 reimbursement that we made was adequate. In other</p> <p>16 instances, we determined that the average wholesale</p> <p>17 price that we paid was just not sufficient to</p> <p>18 reimburse, and in those instances, there were</p> <p>19 sometimes where I'd work with the manufacturer</p> <p>20 themselves and find that the average wholesale price</p> <p>21 hadn't been updated correctly, so that would be the</p> <p>22 conclusions either to confirm what it was that I was</p>